

AMENDED IN ASSEMBLY APRIL 19, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2311**

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**Introduced by Assembly Member Mendoza**

February 19, 2010

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An act to add Section 38569 to the Health and Safety Code, relating to air pollution.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2311, as amended, Mendoza. California Global Warming Solutions Act of 2006: ~~transportation fuels~~; *low-carbon fuel standard* review.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reduction.

This bill would require the *executive officer of the* state board to ~~review any regulation adopted by the state board that establishes greenhouse gas emission requirements or standards for transportation fuels and adopt a report relating to this review, as provided. The bill would require the state board, based on that report, to either readopt the regulation without revision or revise the compliance schedule or schedules in the regulation, or other provisions of the regulation, to~~

~~avoid unreasonable impacts on California fuel supplies or prices, competitiveness of California businesses relative to out of state or international competitors, unreasonable impacts on the California economy, and unreasonable impacts on California small businesses~~  
*conduct 3 reviews on the implementation of the low-carbon fuel standard regulations adopted by the state board to regulate greenhouse gas emissions from transportation fuels. The bill would also require the executive officer of the state board to establish a low-carbon fuel standard advisory panel for purposes of participating in the reviews, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 38569 is added to the Health and Safety  
2     Code, to read:  
3     38569. ~~(a) No later than January 1, 2012, and at least every~~  
4     ~~three years thereafter, the state board shall review any regulation~~  
5     ~~adopted by the state board that establishes greenhouse gas emission~~  
6     ~~standards or requirements, including carbon intensity requirements,~~  
7     ~~for transportation fuels and adopt a report relating to that review.~~  
8     ~~(b) (1) For each review pursuant to subdivision (a), the~~  
9     ~~executive officer of the state board shall publish a draft review~~  
10    ~~report that contains the information described in subdivision (c);~~  
11    ~~for a 45-day public comment period, at least 90 days prior to~~  
12    ~~presenting the draft review report to the state board. The executive~~  
13    ~~officer of the state board shall use generally accepted modeling~~  
14    ~~and analytical methods in preparing the draft review report.~~  
15    ~~(2) During the public comment period, the State Energy~~  
16    ~~Resources Conservation and Development Commission, the Public~~  
17    ~~Utilities Commission, the Department of General Services, the~~  
18    ~~Department of Food and Agriculture, the Natural Resources~~  
19    ~~Agency, the State Water Resources Control Board, the State~~  
20    ~~Department of Public Health, the Department of Finance, the LCFS~~  
21    ~~advisory panel formed pursuant to subdivision (b) of Section 95489~~  
22    ~~of Title 17 of the California Code of Regulations, and the~~  
23    ~~Legislative Analyst shall provide written comments on the draft~~  
24    ~~review report.~~

1 ~~(3) During the public comment period, the executive officer of~~  
2 ~~the state board shall obtain an external peer review of the draft~~  
3 ~~review report.~~

4 ~~(4) Following receipt of the peer review described in paragraph~~  
5 ~~(3), public comments, and the comments of the agencies described~~  
6 ~~in paragraph (2), the executive officer of the state board shall~~  
7 ~~consider and prepare a written response to the comments and peer~~  
8 ~~review at least 15 days prior to presentation of the final report to~~  
9 ~~the state board. The final report shall be revised to address~~  
10 ~~comments received from the public, the peer reviewers, and the~~  
11 ~~agencies described in paragraph (2).~~

12 ~~(5) The executive officer of the state board shall present the~~  
13 ~~final review report to the state board at a regularly scheduled public~~  
14 ~~hearing prior to the completion date set forth in subdivision (a).~~  
15 ~~At that hearing, the state board shall take public testimony on the~~  
16 ~~review report and shall adopt, revise, or reject the report by a~~  
17 ~~majority vote of the state board.~~

18 38569. *(a) The executive officer of the state board shall*  
19 *conduct three reviews on the implementation of the low-carbon*  
20 *fuel standard regulations described in Subarticle 7 (commencing*  
21 *with Section 95480) of Article 4 of Subchapter 10 of Division 3 of*  
22 *Title 17 of the California Code of Regulations. The first review*  
23 *shall be completed and presented to the state board by January*  
24 *1, 2012. The second review shall be completed and presented to*  
25 *the state board by January 1, 2015. The third review shall be*  
26 *completed and presented to the state board by January 1, 2018.*

27 ~~(e) The draft and final reports~~

28 *(b) Each review described in subdivision (a) shall address, at a*  
29 *minimum, all of the following:*

- 30 (1) The regulation's progress against its targets.  
31 (2) Adjustments to the compliance schedule that are needed.  
32 (3) Advances in full fuel life-cycle assessments.  
33 (4) Advances in fuels and production technologies, including  
34 the feasibility and cost-effectiveness of these advances.  
35 (5) The ~~commercial~~ availability and ~~scope~~ of use of ultra  
36 low-carbon fuels to achieve the regulation's standards and the  
37 advisability of establishing mechanisms to create incentives for  
38 greater use of these fuels.  
39 (6) An assessment of supply availabilities and the rates of  
40 commercialization of fuels and vehicles.

1 (7) The regulation's impact on the state's fuel supplies.

2 (8) The regulation's impact on state revenues, consumers, and  
3 economic growth.

4 (9) An analysis of the public health impacts of the regulation  
5 at the state and local level, including the impacts of local  
6 infrastructure or fuel production facilities in place or under  
7 development to deliver low-carbon fuels, using a state  
8 board-approved method of analysis developed in consultation with  
9 public health experts from other government agencies and  
10 academia.

11 (10) An assessment of the air quality impacts in the state  
12 associated with the implementation of the regulation, including,  
13 but not limited to, whether the use of low-carbon fuels in the state  
14 will affect progress towards achieving state or federal air quality  
15 standards, or result in any significant changes in toxic air  
16 contaminant emissions, and recommendations for mitigation to  
17 address adverse air quality impacts identified.

18 (11) Identification of hurdles or barriers including, but not  
19 limited to, permitting issues, infrastructure adequacy, and the  
20 availability of research funds, and recommendations for addressing  
21 these hurdles or barriers.

22 (12) Significant economic issues, fuel adequacy, reliability, and  
23 supply issues, and environmental issues that have arisen.

24 (13) The advisability of harmonizing with international, federal,  
25 regional, and state regulations, including, but not limited to,  
26 competing fuel life-cycle assessments.

27 ~~(d) (1) Prior to publishing a draft of the report as required by~~  
28 ~~subdivision (b), the executive officer of the state board shall consult~~  
29 ~~with public and private persons that would be significantly~~  
30 ~~impacted by the implementation of the regulation to identify those~~  
31 ~~investigative or preventive actions that may be necessary to ensure~~  
32 ~~consumer acceptance, product availability, acceptable performance,~~  
33 ~~and equipment reliability. The significantly impacted persons to~~  
34 ~~be consulted shall include, but are not limited to, fuel~~  
35 ~~manufacturers, fuel importers, fuel developers, fuel distributors,~~  
36 ~~independent marketers, vehicle manufacturers, environmental~~  
37 ~~organizations, environmental justice organizations, and fuel users.~~

38 ~~(2) Prior to publishing a draft of the report as required by~~  
39 ~~subdivision (b), the executive officer of the state board shall hold~~

1 at least two public workshops on the subjects to be covered in the  
2 report.

3 ~~(e) Based upon the information in the final report adopted by~~  
4 ~~the state board, the state board shall either readopt the regulation~~  
5 ~~without revision, or revise the compliance schedule or schedules~~  
6 ~~in the regulation, or revise other provisions of the regulation, to~~  
7 ~~avoid unreasonable impacts on California fuel supplies or prices;~~  
8 ~~competitiveness of California businesses relative to out-of-state~~  
9 ~~or international competitors, unreasonable impacts on the California~~  
10 ~~economy, and unreasonable impacts on California small businesses.~~

11 *(c) (1) The executive officer of the state board shall establish*  
12 *a low-carbon fuel standard advisory panel that shall include*  
13 *representatives from all of the following:*

14 *(A) The State Energy Resources Conservation and Development*  
15 *Commission.*

16 *(B) The Public Utilities Commission.*

17 *(C) Fuel providers.*

18 *(D) Fuel storage and distribution infrastructure owners and*  
19 *operators.*

20 *(E) Consumers.*

21 *(F) Engine and vehicle manufacturers.*

22 *(G) Environmental justice organizations.*

23 *(H) Environmental groups.*

24 *(I) Academia.*

25 *(J) Public health organizations.*

26 *(K) Other stakeholders and government agencies as determined*  
27 *by the executive officer of the state board.*

28 *(2) The advisory panel created pursuant to paragraph (1) shall*  
29 *participate in the reviews described in subdivision (a), and the*  
30 *executive officer of the state board shall solicit comments and*  
31 *evaluations from the advisory panel regarding the state board's*  
32 *assessments of the items described in subdivision (b), as well as*  
33 *on other topics relevant to the reviews described in subdivision*  
34 *(a).*

35 *(d) The executive officer of the state board shall conduct the*  
36 *reviews described in subdivision (a) in a public process and shall*  
37 *conduct at least two public workshops for each review prior to*  
38 *presenting the review to the state board. In presenting the reviews*  
39 *to the state board, the executive officer of the state board shall*  
40 *propose any amendments to the low-carbon fuel standard*

- 1 *regulations described in subdivision (a), or other actions, that the*
- 2 *executive officer of the state board determines is warranted.*

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